

# Christian Community Broadcasters' Plan for the Future of Low Power FM ("CCB Plan")

## Introduction

CCB's founder, John O. Broomall, Sr., has invested thousands of hours to LPFM since it was established in January 2000. CCB is a leader in LPFM Advocacy, Consulting, and Equipment, having individually assisted nearly one hundred LPFM applicants, permittees, and operators with applications, waiver requests, other filings, pleadings, consulting, and equipment. CCB serves a substantial portion of the LPFM community through its comprehensive website, [www.ccbroadcasters.com](http://www.ccbroadcasters.com), an LPFM email discussion group, newsletters, and regional day-long LPFM Success Seminars. CCB is aware of the needs of LPFM organizations - current and prospective - and limitations imposed by law and current FCC regulations.

CCB will Comment on the basic legal structure of LPFM, the Points system, time sharing, successive licensing, multiple ownership, buying and selling LPFM permits/licenses, and length of construction permits. Changes proposed - though extensive and far-reaching - should remove confusion and simplify the LPFM service, while not adversely affecting existing or future full-power or translator broadcasters. CCB recognizes that the FCC designed LPFM as the simplest form of broadcasting, yet there is misunderstanding and disagreement on basic regulations by applicants, FCC attorneys, and possibly within the FCC itself.

(a) **Background** - A California resident could establish an unincorporated non-profit organization in Georgia with one trustee just before a filing window, be the only LPFM applicant in a community, receive a CP and license, and operate the station just five hours a day with all programming originating at a satellite network in Texas. This scenario may seem "wrong" but CCB believes that it is completely legal, assuming that non-residents are permitted to form non-profit organizations in another state, and if the organization did not participate in the Point system. Also, if this same trustee founded the applicant organization two years before the filing window, and played music CDs (and legal IDs) from a \$200 player, then this station could claim all three points (as a two-year old organization operating the station 12 hours a day, with eight hours of local programming). While many may believe that this situation is "hypothetical" and "wrong," it is real and legal. More than one or two LPFM stations are now operating 24-hours-a-day using what some call "redneck automation."

(b) **Recommendation I** - *Eliminate the Point System. No two-year local presence requirement. All LPFM stations must operate at least 12 hours day with eight hours local programming.* Based on current requirements, this should be very easy to accomplish.

**Discussion** - LOCAL PRESENCE has been widely misunderstood. FCC regulations do not require board members to live within ten miles if an organization's headquarters are local. Individuals who have lived in a community more than two years - maybe even their entire life - may not form an organization just before a filing window and get a point. Many people might assume that an established organization will operate a superior local station, but there is no proof this is true. Writing impressive Exhibits 2 and 7 is easy; operating an effective non-profit organization is much more difficult. Is a hundred-year-old church playing music CDs serving the community more effectively than programming provided by an experienced and motivated newcomer in the community? The answer is obvious.

**LOCAL PROGRAMMING** - Playing CDs via an automated system meets the requirements of "programming produced within ten miles." CCB does not suggest this be changed. However, if LPFM advocates and the FCC want tougher "local programming" requirements and an effective point system, CCB has a recommendation: Give points only for local live programming - one point for each hour daily of local live programming and enforce this requirement. Thus a station promising "local live" 24-hours-a-day would get a CP over applicants promising to operating 23

hours a day. This would definitely cut down the amount of MX situations.

**OPERATING HOURS** - The incremental hourly cost of operating an LPFM is extremely low; electricity and wear-and-tear on equipment are the only added costs incurred whether operating five hours or 24 hours daily. Operating 12 hours daily is an easy requirement for all stations. In fact, silent hours should be released for us but other low power operators. CCB understands that some full-power stations are currently subject to a "use it or lose it" requirement.

(c) **Recommendation II** - *Establish mandatory Frequency Sharing for Mutually Exclusive applicants; all MX applicants would be required to merge into one new organization within six months after the applications were classified as MX by the FCC. All applicants who did not participate in a settlement would be dismissed.* Problems associated with Universal Settlement, Points Settlements, time sharing, and successive permits would be gone. Simple. Effective. Superior to the present system.

**Discussion** - **FREQUENCY SHARING (FS)** - CCB defines "FS" as a settlement system whereby MX applicants jointly create a new organization to own and operate an LPFM station. Upon approval of the Settlement Agreement, the FCC would dismiss the original applications and grant a CP to the new NCE entity. The agreement would specify a common transmitter site (moves of more than 5.6 km would be permitted, and one call, one EAS system, and one license. It could also specify that programs provided by various partners be aired at agreed times. Programming agreements would not be monitored or enforced by the FCC. Sanctions for violating any FCC regulations would be issued against the organization holding the license.

**PROBLEMS WITH TIME SHARING** - Time share stations frequently operate from different sites, thus confusing the public with varying signal levels from sites miles apart. Under current regulations, three point stations are required to provide eight hours local and twelve hours total programming. This is obviously impossible if you have four separate stations each operating six hours a day. Coordination of turning transmitters "on" and "off" to prevent overlapping transmissions presents possible problems. Current FCC regulations require separate EAS systems even when a common transmitter is used. Multiple EAS units connected to a common transmitter involve substantial extra expense and technical problems; for example, if an EAS starts while one station is broadcasting and ends during the following station's hours.

**SUCCESSIVE LICENSES ARE UNWORKABLE** - The only options now to unacceptable alliances are dismissal or getting a successive permit. No applicant wants a successive permit, renewable or otherwise. No LPFM organization wants to spend \$15,000 to \$25,000, or more, then file for permission to start program tests, and then wait up to seven years before going on the air. Getting to "go first" is not much better; this license must wait years before getting on the air again, even if successive licenses are made renewable. The public interest is not served by a new station with a different format every year, with possible years of intervening silence.

(d) **Recommendation III** - *Permit, and in some cases require, not-for-profit transfer of licenses, permits, and applications.*

**Discussion** - As covered in the above recommendation, ownership transfers can offer solutions to MX problems as well as allow continuing local service when unexpected circumstances require changes in boards or ownership. To prevent speculation in non-profit licenses, the actual license transfer should be made without compensation to local qualified non-profit organizations. Of course, the seller should be reimbursed by the purchaser for equipment, real estate, and other property transferred. In addition, the seller should be compensated for training and other transitional services provided, on a non-profit basis.

(e) **Recommendation IV** - *Allow multiple ownership of up to ten LPFM and/or translator stations within 15 miles of the primary station, with minimum spacing of five miles between any two stations. Forbid other multiple ownerships outside the local "cluster."*

**Discussion** - CCB does not believe that LPFM licensees should own and operate stations in five or ten states through a national network or alliance. Allowing multiple stations in a cluster having a radius of 15 miles solves concerns of many LPFM operators, however. LPFM broadcasters desire more power and directional patterns to cover larger areas and solve terrain problems (i.e. reach the back side of a nearby mountain). Multiple 100 or 10 watt transmitters, strategically located, would reach the intended market with collectively more power and directionality. CCB recommends that these stations be allowed to jointly program and own the most effective mix of translators, LP100, and LP10 stations. With transmitters as far as 30 miles apart (15 miles from the center primary station), a substantial area could be covered.

**(f) Recommendation V** - *Allow all proposals in the CCB Plan as Minor Modifications, using a modified Form 318 which would even cover all instances of board / ownership changes discussed.*

**Discussion** - If CCB's plan is implemented, most changes could be made as Minor Mods, reducing the need for a Major Mod window, thus allowing new windows primarily for new applications. Existing forms 314, 315, 316, and 303 are not fully tailored for LPFM's unique regulations, thus modifying current LPFM-specific forms would be quite helpful.

**(g) Recommendation VI** - *Limit initial CPs to 18 months with the option to request a single 18 month extension, with cause, via a modified Form 318.*

**Discussion** - For many reasons, LPFM permittees decide not to build, but do not notify the FCC so the frequency is available for future use. If a permittee does not take the initiative to ask for an extension, the frequency should be made available for use in a future window.

**(h) Recommendation VII** - *Allow new options for LPFM organizations facing fatal or serious encroachment / interference from full-power stations or existing translators including move via minor modifications up to 15 miles, simplified procedures for moving to any available frequency, reduction to LP10 status, priority over translator applications / mod filed since 2002, and moves to 87.9 for stations not near international boundaries or Channel 6 broadcasters.*

**Discussion** - Obviously LPFM stations want primary status, even retroactively. An organization with investments of time, money, and dedication, desires to survive and thrive. LPFM organizations are not suicidal; most of the LPFM organizations that "give up" are those facing insurmountable odds. Even though thousands of Comments have been filed requesting Primary Status, CCB does not believe that this request will be honored. Low Power TV station obtained Primary or Class A status only after an Act of Congress. This law has been narrowly interpreted by the FCC. Since the FCC supports LPFM, creative solutions need to be found to alleviate the encroachment problem,

**ENCROACHMENT PROBLEMS** - The March 17, 2005 Petition stated that only one LPFM station has been ordered off the air by the FCC because of full-power encroachment. Though true, this statement gives an incorrect impression of the problems LPFM faces because of interference / encroachment. Many LPFM applicants and permittees have seen "the handwriting on the wall" and have never used their CPs. Even though the situation is somewhat different, more than half of all LPFM applications in 2000-01 have been dismissed for technical reasons, primarily short-spaced situations. Most occurred after Congress changed the law in December; hundreds of applicants could not find a new frequency and others lost their dream when this law created new MX situations. If nothing else, this shows that the serious demand for LPFM stations is greater than available frequencies.

**SITE / FREQUENCY / POWER CHANGES NEEDED** - Moving more than 3.5 miles, coupled with frequency changes could save many stations. CCB recommends 15 miles as the new distance standard for everything from moving transmission sites to defining "local." This distance is

selected because co-channel LP100 stations must be this distance apart. Procedures for changing to any frequency should be simplified - any tech box change of frequency should be granted as a minor mod. The only requirement should be that the new frequency meets all FCC technical / interference requirements without proving that it is "better" than the original frequency. No full-power or translator broadcaster will be hurt if an LPFM determines that requesting LP10 status is necessary. LP10 stations are promised for "future windows" - the need is now for some LP10 stations to give relief to current broadcasters.

(i) **Recommendation VIII** - *Starting with the 2003 Translator window, classify all new translators as Third Status, subject to pre-emption by all present and future LPFM stations. Permission should not be granted for profit sales of translator permits or stations by non-profit organizations. Requiring future and pending translators to be owned by the station they translate would result in prohibiting the control of thousands of translators by a few organizations.*

**Discussion** - The FCC would not have frozen the processing of 2003 translator applications if it had not been concerned about a few organizations controlling thousands of translator frequencies. Other good suggestions have been presented to keep the future development of LPFM from being severely hurt by the actions of a few people. Regardless of which suggestion is best, all LPFM groups plead for relief from the Great Translator Invasion of 2003.